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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,425	10/23/2000	Troy Alan Ussery	OFFW01-00008	1041
7590 07/13/2006 William A. Munck, Esq NOVAKOV DAVIS & MUNCK, P.C. 900 Three Galleria Tower 13155 Noel Road Dallas, TX 75240			EXAMINER SHAH, AMEE A	
			ART UNIT 3625	PAPER NUMBER
DATE MAILED: 07/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/694,425	USSERY ET AL.	
	Examiner	Art Unit	
	Amee A. Shah	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-20 are pending in this action.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on April 17, 2006, has been entered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(m) and (p) because (1) they contain improper shading that does not aid in the understanding of the invention and will not reproduce properly; (2) they contain handwritten text that is almost illegible and will not reproduce properly; (3) they do not include the following reference sign(s) mentioned in the description: 129 (page 18, line 13) and 300' (page 40, line 10); (4) they include the following reference character(s) not mentioned in the description: 129a, 129b, 129c, 129d, 129n, 230, 245, 258, 259; and (5) reference characters "258" (Figure 2B) and "260" (page 29, line 10) have both been used to designate "Order entry".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. §103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5, 8-15, 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Thompson, U.S. Pat. No. 6,393,410 (hereafter referred to as “Thompson”), in view of Kobayashi et al., U.S. Pat. No. 6,275,825 B1 (hereafter referred to as “Kobayashi”).

Referring to claim 1. Thompson discloses an electronic commerce system for use over a global communications network (i.e., the internet) having company nodes (i.e., the owner of a project such as an architect or contractor) and constituency nodes (i.e., a purchaser such as a contractor or engineer) associated therewith (*see* Abstract); wherein said system comprises:

- a data repository (col. 2, lines 40-45) that is operable to store data files associated with said company nodes, wherein said company nodes populate respective associated data files with company information wherein each set of said company information relates to a specific company that is represented by a specific company node (i.e., information about the construction projects);
- wherein at least one company node is operable to modify said company information that is stored in said data files (col. 3, lines 46-55 – note the administrative team/user is able to change and update the information); and
- a communications controller (20) that is operable (i) to propagate communications interfaces accessible by said constituency nodes with selected portions of said commercial information (i.e., the construction project) under control of said company nodes (col. 3, lines 29-36), and (ii) gather feedback information (i.e., the response of the sub-contractors) representative of constituency response to said constituency nodes accessing said communication interfaces (col. 4, lines 20-49).

Thompson does not expressly show wherein each set of said company information relates to a specific company that is represented by a specific company node, but rather that the data files contain company information relating to construction project presented by the company (col. 2, lines 36-39). However, this difference is only found in the nonfunctional descriptive material stored in the data files is not functionally related to the substrate of the system. The system would perform the functions of storing, modifying, controlling and propagating the data in the same manner regardless of the type of data, whether relating to a company, a project or both. Thus, this non-functional descriptive material will not distinguish the claimed invention from the prior art Thompson in terms of patentability. *See In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowrey*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the system disclosed by Thompson to store, modify, control and disseminate any type of information in any industry.

Thompson further does not expressly show wherein at least one company node is operable to control when selected portions of company information in said data files are made available to said constituency nodes. However, Kobayashi, dealing with the same problem of access to files, discloses a method and system for controlling access to various features of a software application, including wherein the software controls when selected portions of information in data files are made available to constituency nodes, i.e. controlling access to portions of information contained in databases (*see, e.g.*, Abstract, col. 4, lines 8-31 and col. 10, line 44 through col. 11, line 16).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Thompson to include the teachings of Kobayashi to allow for the ability to control when selected portions of company information in said data files are made available to said constituency nodes. Doing so would allow for authorized users to have access to certain information based on security clearances and the like, while ensuring unauthorized users do not have access.

Referring to claims 2 and 3. Thompson in view of Kobayashi discloses the system of claim 1 that is further operable to process said gathered feedback information (i.e., submitted bids) and, in response thereto, modify one of said data files (Thompson, col. 4, lines 31-49) and to report results of the bidding process to the company node.

Referring to claim 4. Thompson in view of Kobayashi discloses the system of claim 1 wherein the controller, while gathering feedback information, employs mathematical representation (i.e., the fundamentals such as binary code upon which computing occurs) to represent at least one of constituency understanding and reaction (i.e., submitted bids) (Thompson, Abstract and col. 3, line 26 which discloses the use of a digitizer).

Referring to claims 5. Thompson in view of Kobayashi discloses the system of claim 1 further comprising a security controller that is operable, with respect to those data files associated with said company node, to limit access to said those data files to designated personnel of said company nodes; i.e., the information is not made public until a supervisor

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accepts the information (Thompson, col. 3, lines 29-36). Additionally, Thompson also teaches the use of a user authentication system where the user must enter a login ID and password.

Referring to claims 8 and 9. Thompson in view of Kobayashi discloses the system of claim 1 wherein the controller is also operable to store, index, and relate associated portions of said commercial information in the data repository and wherein said commercial information is organized in a manner to be made available to the public or constituency nodes (Thompson, *see* Abstract).

Referring to claims 11-15, 18 and 19. All of the limitations in method claims 11-15, 18 and 19 are closely parallel to the limitations of system claims 1-5, 8 and 9, analyzed above and are rejected on the same bases.

Claims 6, 7, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of Kobayashi, as applied to claims 1 and 5, and further in view of Holzrichter et al., U.S. Pat. No. 5,729,694 (hereafter referred to as "Holzrichter").

Referring to claims 6 and 7. Thompson in view of Kobayashi discloses the systems of claims 1 and 5 wherein the system includes a security controller, but does not disclose wherein the controller includes an interactive voice recognition to identify designated personnel and wherein the controller translates selected portions of the information from a first language into a second language. Holzrichter, addressing the same problem, teaches the use of speaker identification, language-of-speech identification, and speech translation (*see, e.g.,* Abstract).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Thompson in view of Kobayashi to include the teachings of Holzrichter to allow for the ability to use an interactive voice recognition to identify designated personnel and to translate selected portions of the information from a first language into a second language. Doing so would allow for the capability of data being accessed by those denied use of their hands and thereby precluded from using a conventional computer terminal.

Referring to claims 16 and 17. All of the limitations in method claims 16 and 17 are closely parallel to the limitations of system claims 6 and 7, analyzed above and are rejected on the same bases.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (1) Doost, Roger K., "How To Improve Client's Access Control Over Programs And Files," The CPA Journal, New York, Mar, 1989, vol. 59, iss. 3, pages 44-46, disclosing a system to control access to certain programs and files.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amee A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogesh Garg can be reached on 571-272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AAS

July 6, 2006



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